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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,883	12/27/2000	Tadahiro Ohmi	FUK-80	5713
22855	7590 01/24/2003			
RANDALL J. KNUTH P.C.			EXAMINER	
3510-A STELLHORN ROAD FORT WAYNE, IN 46815-4631			COOKE, COLLEEN P	
			ART UNIT	PAPER NUMBER
			1725	7
			DATE MAILED: 01/24/2003	,

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Examiner			<u> </u>				
Examiner Collegen P Cooke  - The MAIL/ING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAIL/ING DATE of This COMMUNICATION Estimation of time may be available under the provisions of 31° CPR 1.138(a). In no evant, however, may a reply be linely filled - if the period for may be period above, the maximum statisticary sheed will apply and will expose SM (ii) MXNHTHS from the mailing date of this or the provision of the provi		Application No.	Applicant(s)				
Colleen P Cooke  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  If the pariod for reply specified above is less than titrity (30) days, and provide the district of the period for reply specified above is less than titrity (30) days, and provide the district of the period for reply specified above is less than titrity (30) days, and provided the district of the period for reply specified above is less than titrity (30) days, and provided by the considered sinely.  If the period for reply specified above is less than titrity (30) days, and provided by the considered sinely.  If the period for reply specified above is less than titrity (30) days, and the considered sinely.  If the period for reply specified above is less than the replaced and the replaced of this communication.  Any replaced only the Office later than these months after the maining date of this communication, even if timely filled, may reduce any section of this communication.  A proplication is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) isfare pending in the application.  4) Claim(s) isfare allowed.  6) Claim(s) isfare allowed.  6) Claim(s) isfare objected to.  3) Claim(s) isfare objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The proposed drawing correction filed on isfare; all accepted or bl objected to by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  11) The proposed drawing correction filed on isfare; all accepted or bl objected to by the Examin	Office Action Summany	09/748,883	OHMI ET AL.				
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be waited build be provided in the communication.  Estancian of time may be waited build be provided in the communication.  Estancian of time may be waited build be provided in the communication.  It NO perceived by MoNTHS from the mailing date of this communication.  Failure to reply within the set of extended period for reply will, by statute, cause the application to become ARAHDONED (38 U.S.C. § 133). Any soly recoved by the Other later behalt here mailing date of this communication, even if timely filed, may reduce any seamed patent term designated after the mailing date of this communication, even if timely filed, may reduce any seamed patent term designated after the mailing date of this communication, even if timely filed, may reduce any seamed patent term designation and the filed on <u>02 December 2002</u> .  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s)	<u> </u>	pears on the cover sheet with the C	correspondence address				
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	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal					

Application/Control Number: 09/748,883

Art Unit: 1725

This restriction is to replace the last restriction made in paper number 5 which mistakenly included claim 16, which depends from claim 1, with independent claim 9 and not with independent claim 1. This restriction corrects that error but no changes have been made otherwise.

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-14, 16 and 21 -23, drawn to a welding method, classified in class 228, subclass 203.
- II. Claims 15, 17-20, and 24-26, drawn to a steel product, classified in class 428, subclass 544.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made by any joining process not limited to that which is claimed.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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If applicant elects Group I, an election of species must also be made:

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species IA: Claims 1-8 and 16 are drawn to a welding method having a particular back shield gas.

Species IB: Claims 9-14 and 21-23 drawn to a welding method having particular passivation treatment.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Repeated telephone calls were made to Randy J. Knuth on several dates to request an oral election to the above restriction requirement, but not one of these calls was returned and thus did not result in an election being made.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after Art Unit: 1725

the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Conclusion

Any inquiry concerning this or earlier communications from the examiner should be directed to Colleen Cooke, whose telephone number is 703-305-1136. She can normally be reached Monday-Thursday from 7:15-5:45pm.

If attempts to reach the examiner by telephone are unsuccessful, her supervisor, Thomas Dunn, can be reached at 703-308-3318. The official fax number for the organization where this

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application or proceeding is assigned is 703-305-6078. The unofficial fax number for this examiner is 703-746-3048.

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0661.

CPC 1/21/2003

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M. ALTHONO, IA ELVE PRIMARY EXAMINER